

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CASE NO. _____

NICHOLAS NIELSEN,

Plaintiff,

v.

ADM TRUCKING, INC.,

Defendant.

NOTICE OF REMOVAL

TO THE CLERK OF COURT:

Defendant ADM Trucking, Inc. (“ADM”) hereby removes this action from the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina to the United States District Court for the Western District of North Carolina, Charlotte Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Removal, ADM states:

1. On or about March 10, 2022, Plaintiff Nicholas Nielsen commenced this action in the General Court of Justice, Superior Court Division of Mecklenburg County, North Carolina by filing a Complaint captioned: *Nicholas Nielsen v. ADM Trucking, Inc.*, Civil Action No. 22-CVS-53957 (“the State Court Action”).

2. The Complaint and the related Summons from the State Court Action were served on ADM on March 16, 2022.

3. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders that have been served on ADM in the State Court Action are attached hereto as Exhibit A.

4. The time for filing this Notice of Removal under 28 U.S.C. § 1446(b) has therefore not yet expired.

5. Removal of this action is based on 28 U.S.C. § 1441 in that this is a civil action brought in a State court over which the district courts have original jurisdiction under 28 U.S.C. § 1332 on the grounds that complete diversity of citizenship exists between the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. There is complete diversity of citizenship between Plaintiff and ADM because:

A. Plaintiff is a citizen of Mecklenburg County, North Carolina, as alleged in Paragraph 1 of the Complaint; and

B. ADM is a corporation incorporated under the laws of the State of Delaware with its principal place of business located in Chicago, Illinois, and thus is a citizen of both Delaware and Illinois for diversity purposes.

7. Based upon the allegations in the Complaint and certain information regarding Plaintiff's alleged damages and injuries received from Plaintiff's attorney A,DM believes and asserts that the amount in controversy in this action exceeds the sum of \$75,000, exclusive of interest and costs. Pursuant to 28 U.S.C. § 1446(c)(2), this Notice of Removal may assert the amount in controversy exceeds \$75,000, exclusive of interest and costs, because the Plaintiff's Complaint seeks a money judgment, but North Carolina State practice and Rule 8(a)(2) of the North Carolina Rules of Civil Procedure does not permit demand for a specific sum in the Plaintiff's Complaint and only permits him to say that he is seeking damages in excess of \$25,000.

8. Venue is proper in the United States District Court for the Western District of North Carolina, Charlotte Division, pursuant to 28 U.S.C. § 1391(b), because a substantial part of the

events or omissions giving rise to this action occurred in this district and division, and at least one of the parties conducts business in, and may be found in, this district and division.

9. Plaintiff's Complaint includes a jury trial demand.

10. Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal and a Notice of Filing Notice of Removal is being filed with the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina and is being served on Plaintiff's counsel.

WHEREFORE, having fulfilled all statutory requirements, Defendant ADM Trucking, Inc.. removes the State Court Action, and requests that this Court assume full jurisdiction over the matter as provided by law, and permit this action to proceed before it as a matter properly removed thereto.

This the 13th day of April 2022.

Respectfully submitted,

COZEN O'CONNOR

By: s/Denise L Bessellieu

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she has this day electronically filed the foregoing NOTICE OF REMOVAL with the Clerk of Court using the CM/ECF system, and served a copy upon all parties to this action by placing a copy of same in the United States mail, postage prepaid, addressed as follows:

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Attorneys for Plaintiff

This the 13th day of April 2022.

COZEN O'CONNOR

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